

**SEVENTY-EIGHTH DAY**

(Monday, June 4, 1951)

The Senate met at 10:00 o'clock a. m., pursuant to adjournment, and was called to order by the President.

The roll was called and the following Senators were present:

Aikin	Lane
Ashley	Lock
Bell	Martin
Bracewell	McDonald
Bullock	Moffett
Carter	Parkhouse
Colson	Russell
Corbin	Shofner
Fuller	Strauss
Hardeman	Tynan
Hazlewood	Vick
Hudson	Wagonseller
Kelley of Hidalgo	Weinert
Kelly of Tarrant	

Absent

Phillips

Absent—Excused

Carney	Nokes
Moore	

A quorum was announced present.

Reverend W. H. Townsend, Chaplain, offered the invocation.

On motion of Senator Aikin, and by unanimous consent, the reading of the Journal of the proceedings of Thursday, May 31, 1951, was dispensed with and the Journal was approved.

**Leaves of Absence**

Senator Carney was granted leave of absence for today on account of important business on motion of Senator Aikin.

Senator Moore was granted leave of absence for today on account of important business on motion of Senator Corbin.

Senator Nokes was granted leave of absence for today on account of important business on motion of Senator Martin.

**Senate Bill 473 on First Reading**

Senator Kelley of Hidalgo moved that Senate Rule 114, and Section 5 of Article III of the State Constitution be suspended to permit his intro-

ducing at this time, a bill, the provisions of which he explained.

The motion prevailed by the following vote:

Yeas—25

Aikin	Lane
Ashley	Lock
Bell	Martin
Bracewell	McDonald
Bullock	Moffett
Carter	Parkhouse
Colson	Russell
Fuller	Shofner
Hardeman	Strauss
Hazlewood	Tynan
Hudson	Wagonseller
Kelley of Hidalgo	Weinert
Kelly of Tarrant	

Absent

Corbin	Vick
Phillips	

Absent—Excused

Carney	Nokes
Moore	

The following bill was then introduced, read first time and referred to the committee indicated:

By Senator Kelley of Hidalgo:

S. B. No. 473, A bill to be entitled "An Act amending Chapter 111, Acts 1933, 43rd Legislature, first Called Session, by adding thereto a new section permitting navigation districts which have heretofore or which may hereafter adopt plans for the construction of a grain elevator to place management of said elevator in a board of trustees during the time said elevator is encumbered to secure revenue bonds issued for the acquisition thereof; validating resolutions and indentures heretofore adopted creating such boards or making provision therefor; and, declaring an emergency."

To Committee on Water Rights, Irrigation and Drainage.

**Senate Concurrent Resolution 75 on First Reading**

Senator Fuller moved that Senate Rule 114, and Section 5 of Article III of the State Constitution be suspended to permit his introducing at this time, a resolution, the provisions of which he explained.

The motion prevailed by the following vote:

## Yeas—27

Aikin	Lane
Ashley	Lock
Bell	Martin
Bracewell	McDonald
Bullock	Moffett
Carter	Parkhouse
Colson	Russell
Corbin	Shofner
Fuller	Strauss
Hardeman	Tynan
Hazlewood	Vick
Hudson	Wagonseller
Kelley of Hidalgo	Weinert
Kelly of Tarrant	

## Absent

Phillips

## Absent—Excused

Carney	Nokes
Moore	

The following resolution was then introduced, read first time and referred to the committee indicated:

S. C. R. No. 75, Granting Callie Matise and J. P. Ahysen of Port Arthur, Jefferson County, Texas, permission to sue the State.

Whereas, Callie Matise and J. P. Ahysen, both of whom reside in Port Arthur, Jefferson County, Texas, allege that in the summer of 1949 their respective property, being Lots two (2) and three (3), Block A, Port Arthur Heights, in the City of Port Arthur, Jefferson County, Texas; and Lot thirty-two (32), Block one (1), Stillwell Addition, in the City of Port Arthur, Jefferson County, Texas, was damaged to the extent of having access cut off to said property and the existing drainage of said property being interfered with and interrupted by the construction of U. S. Highway No. 87 through the City of Port Arthur by the State of Texas, acting by and through its agent, Farnsworth and Chambers Construction Company, said construction being known as State Highway Projects Numbers C-65-8-35, 306-3-23 and 307-1-30; and that in building or constructing a viaduct on said highway, in front of and abutting the aforesaid property, ingress and egress to and from said property was destroyed, thereby constituting an additional servitude upon said property and destroying valuable property rights of owners of said property, for which no compensation was made; and that at no time were Mr. Matise or Mr. Ahysen consulted

in the plans or manner of construction to be done, nor did they consent to such construction, nor agree to the type of structure which would be placed on said road, abutting said property, thereby causing such damages; and that said construction was done in such a manner so as to interfere with and interrupt the existing drainage of such property, thereby causing the flooding of said property; and that said flooding constitutes a violation of taking private property for public use without compensation; and that there is no provision of law whereby they can secure judgment and enforce payment for damages except by a court of competent jurisdiction, and it is necessary that the State of Texas and the Texas Highway Department be made a party to said suit; now, therefore, be it

Resolved, By the Senate of Texas, the House of Representatives concurring, that the said Callie Matise and J. P. Ahysen be, and they are hereby, granted permission to file suit against the State of Texas and the Texas Highway Department in a court of competent jurisdiction in Jefferson County, Texas, within a period of two (2) years after the effective date of this resolution; and be it further

Resolved, That service of citation and/or all other necessary processes shall be had upon the chairman of the State Highway Commission and the Attorney General of Texas; it is further

Resolved, That no admission of liability of the State is made by this resolution, and the facts as set out herein must be proven in court.

To Committee on Civil Jurisprudence.

## Messages From the Governor

The President laid before the Senate and directed the Secretary to read the following messages received from the Governor:

Austin, Texas,  
June 1, 1951.

To the Members of the Fifty-second Legislature.

Complying with the request contained in Senate Concurrent Resolution No. 73, I am returning herewith Senate Bill No. 409.

Respectfully submitted,  
ALLAN SHIVERS,  
Governor of Texas.

Austin, Texas,  
June 1, 1951.

To the Members of the Fifty-second Legislature.

I am vetoing and returning herewith to the Senate, Senate Bill No. 56. This is a validating bill. It is vetoed for the reason, among others, that it purports to validate any levy or assessment or collection of school taxes, illegal or otherwise, that might have been "attempted." I believe this would even validate a tax that had been enjoined by a court because of illegality.

Respectfully submitted,  
ALLAN SHIVERS,  
Governor of Texas.

#### Motion To Place House Bill 173 on Second Reading

Senator Carter asked unanimous consent to suspend the regular order of business and that H. B. No. 173 be laid out for consideration at this time.

There was objection.

Senator Carter then moved to suspend the regular order of business and that H. B. No. 173 be laid out for consideration at this time.

The motion was lost by the following vote (not receiving two-thirds vote of the members present):

#### Yeas—16

Bell	Kelley of Hidalgo
Bracewell	Kelly of Tarrant
Bullock	Moffett
Carter	Parkhouse
Colson	Strauss
Corbin	Tynan
Fuller	Vick
Hazlewood	Wagon seller

#### Nays—10

Aikin	Martin
Ashley	McDonald
Hardeman	Russell
Hudson	Shofner
Lane	Weinert

#### Absent

Lock	Phillips
------	----------

#### Absent—Excused

Carney	Nokes
Moore	

#### Motion To Place House Bill 219 on Second Reading

Senator Shofner asked unanimous consent to suspend the regular order of business and that H. B. No. 219 be laid out for consideration at this time.

There was objection.

Senator Shofner then moved to suspend the regular order of business and that H. B. No. 219 be laid out for consideration at this time.

The motion was lost by the following vote (not receiving two-thirds vote of the members present):

#### Yeas—17

Bracewell	Lane
Bullock	Moffett
Carter	Parkhouse
Corbin	Shofner
Fuller	Strauss
Hazlewood	Tynan
Hudson	Vick
Kelley of Hidalgo	Weinert
Kelly of Tarrant	

#### Nays—9

Aikin	Martin
Ashley	McDonald
Colson	Russell
Hardeman	Wagon seller
Lock	

#### Absent

Bell	Phillips
------	----------

#### Absent—Excused

Carney	Nokes
Moore	

#### House Bill 650 on Second Reading

On motion of Senator Colson, and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H. B. No. 650, A bill to be entitled "An Act to amend Section 5 of House Bill 168, Chapter 352, Acts of the Fiftieth Legislature, 1947, as amended, by adding a new subsection to be known as 1; providing that a retired member of the State Employees Retirement System shall be ineligible to be employed as a State employee, except that retired members who retired prior to January 1, 1951, may

teach during the present national emergency and world conflict and twelve (12) months thereafter; etc.; and declaring an emergency."

The bill was read second time and passed to third reading.

#### House Bill 650 on Third Reading

Senator Colson moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 650 be placed on its third reading and final passage.

The motion prevailed by the following vote:

#### Yeas—26

Aikin	Lane
Ashley	Lock
Bell	Martin
Bracewell	McDonald
Bullock	Moffett
Carter	Parkhouse
Colson	Russell
Corbin	Shofner
Fuller	Strauss
Hazlewood	Tynan
Hudson	Vick
Kelley of Hidalgo	Wagonseller
Kelly of Tarrant	Weinert

#### Nays—1

Hardeman

#### Absent

Phillips

#### Absent—Excused

Carney	Nokes
Moore	

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote:

#### Yeas—25

Aikin	Lock
Ashley	Martin
Bell	McDonald
Bullock	Moffett
Carter	Parkhouse
Colson	Russell
Corbin	Shofner
Fuller	Strauss
Hazlewood	Tynan
Hudson	Vick
Kelley of Hidalgo	Wagonseller
Kelly of Tarrant	Weinert
Lane	

#### Nays—1

Hardeman

#### Absent

Bracewell	Phillips
-----------	----------

#### Absent—Excused

Carney	Nokes
Moore	

#### Vote Reconsidered on Senate Bill 231

Senator Lock asked unanimous consent to reconsider the vote by which the Senate concurred in House amendments to S. B. No. 231.

There was no objection offered.

#### Senate Bill 231 With House Amendments

Senator Lock called S. B. No. 231 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and House amendments before the Senate, and the House amendments were read.

Senator Lock moved that the Senate do not concur in the House amendments, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate on the bill:

Senators Lock, Carney, Weinert, Hudson, and Ashley.

#### Reports of Standing Committees

By unanimous consent the following committee reports were submitted at this time.

Senator Kelley of Hidalgo submitted the following report:

Austin, Texas,  
June 4, 1951.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Water Rights, Irrigation and Drainage, to whom was referred S. B. No. 473, have had the same under consideration, and we are instructed to report

it back to the Senate with the recommendation that it do pass and be printed.

KELLEY of Hidalgo, Chairman

Senator Hazlewood submitted the following report:

Austin, Texas,  
June 4, 1951.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Civil Jurisprudence, to whom was referred S. C. R. No. 75, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

HAZLEWOOD, Chairman

#### Vote on House Joint Resolution 6

Senator McDonald asked unanimous consent of the Senate that he be shown voting "yea" on final passage of C. S. H. J. R. No. 6 and Journal to show same on Thursday, May 31, 1951.

There was no objection offered.

#### Bills and Resolutions Signed

The President signed, in the presence of the Senate, after the captions had been read the following enrolled bills and resolutions:

S. B. No. 201, A bill to be entitled "An Act to prevent unfair trade practices in the sale of motor vehicles, boats and tractors requiring an written statement to accompany certain sales, providing for the contents of such written statement, defining terms, declaring an emergency and providing damages and penalties, and declaring an emergency."

S. B. No. 240, A bill to be entitled "An Act amending the Motor Fuel Tax Law, the same being Article XVII of Chapter 184, Acts Forty-seventh Legislature, Regular Session, 1941, as amended, by adding a new section thereto to be known as Section 13½, so as to provide that licensed retail dealers in motor fuel shall receive a refund of two per cent (2%) of State taxes imposed on motor fuel sold by them to cover losses from taxes paid on shrinkage, evaporation and other losses and expenses incurred in collecting the tax for the State; to provide for the licensing of retail dealers of motor fuel; to provide a method of compu-

tation and payment of such refund and making an appropriation; containing a savings clause, and providing for an emergency."

S. B. No. 285, A bill to be entitled "An Act to facilitate and encourage the distribution of gas to the inhabitants of cities, towns, villages and rural areas of the State of Texas, etc.; and declaring an emergency."

S. C. R. No. 68, In memory of Clarence K. De Busk.

#### Adjournment

Senator Hudson moved the Senate stand adjourned until 10:30 o'clock a. m. tomorrow.

Yeas and nays were demanded.

The motion prevailed by the following vote:

#### Yeas—16

Ashley	Lock
Bracewell	Martin
Bullock	McDonald
Carter	Parkhouse
Hardeman	Russell
Hudson	Strauss
Kelly of Tarrant	Vick
Lane	Weinert

#### Nays—10

Aikin	Kelley of Hidalgo
Bell	Moffett
Corbin	Shofner
Fuller	Tynan
Hazlewood	Wagonseller

#### Absent

Colson	Phillips
--------	----------

#### Absent—Excused

Carney	Nokes
Moore	

Accordingly, the Senate at 10:35 o'clock a. m., adjourned until 10:30 o'clock a. m. tomorrow.

#### SEVENTY-NINTH DAY

(Tuesday, June 5, 1951)

The Senate met at 10:30 o'clock a. m., pursuant to adjournment, and was called to order by the President.

The roll was called and the following Senators were present: